



Calls for Legislative Action

2018-2019 Utah Supreme Court and Utah Court of Appeals Decisions

OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Judiciary Interim Committee
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Interbranch Dialogue

“State courts and state legislatures function in dialogue with one another” As a part of that dialogue, “courts can call the attention of the legislature to statutes in need of clarification or modification.”

In re Estate of Hannifin, 311 P.3d 1016, 1025 (Utah 2013) (Durham, J., dissenting).



Options for Responding to a Call

1) Legislative action

- a) Open a committee bill file with instructions
- b) Study the issue raised by the judiciary in committee
- c) Refer the issue to another committee

2) No legislative action



Utah State Tax Comm'n v. See's Candies

2018 UT 57, 435 P.3d 137

- **Challenge to the Utah State Tax Commission's authority to reallocate income between two related companies under Utah Code Section 59-7-113**
- **The Utah Supreme Court interpreted Section 113 to mean that the Utah State Tax Commission has authority to allocate income between related companies if the transaction between the related companies occurs on terms more favorable than would have been reached by two unrelated companies negotiating at arm's length**
- **Call: The Legislature may want to implement a mechanism to prevent companies from receiving favorable tax treatment under the type of transaction at issue in this case**



State v. Burr

2018 UT 63, 435 P.3d 198

- **Challenge to the Pay-to-Stay Statute (Utah Code § 76-3-201)**
- **The Utah Supreme Court concluded that because the defendant's case was closed upon sentencing and the defendant brought the issue after the case was closed, neither the district court nor the Utah Supreme Court has jurisdiction to address the defendant's concerns about the statute**
- **Call: There is a need for legislative intervention to clarify the pay-to-stay statute and the Utah Supreme Court hopes that the Legislature will intervene to clarify the law to forestall some of the issues raised by the case**



Armendariz v. Armendariz

2018 UT App 175, 436 P.3d 294

- Question of whether retirement was foreseeable and the district court could therefore, under Utah Code Section 30-3-5, modify the divorce decree upon retirement
- The Utah Court of Appeals concluded that retirement was foreseeable at the time the divorce decree was entered
- **Call: Whether the Legislature intended payor spouses to be required to pay alimony obligations based on pre-retirement income (Concurring Opinion)**



In re K.J.

2018 UT App 216, 437 P.3d 609

- Question of whether the State could bring a termination petition while an abuse, neglect, and dependency petition was pending in the juvenile court
- The Utah Court of Appeals concluded that nothing in statute prohibited the State from bringing a termination petition while an abuse, neglect, or dependency proceeding was pending
- **Call: Whether the Legislature intended the statute to allow the State to pursue termination while an abuse, neglect, and dependence proceeding is pending**



State v. Coombs

2019 UT App 7, 438 P.3d 967

- Defendant challenged his sentence by arguing that his plea counsel failed to argue for proportionality under the interest-of-justice analysis established by the Utah Supreme Court in *LeBeau v. State*
- The Utah Court of Appeals concluded that Defendant's counsel did not act deficiently by not raising the analysis and the Sentencing Court was not required to engage in the analysis without the prompting of the parties
- **Call: Criticism of *LeBeau* as policy-based review of legislative action**



LeBeau v. State

2014 UT 39, 337 P.3d 254

- **Challenge to the district court’s interpretation of the “interests of justice” in the aggravated kidnapping sentencing statute (Utah Code § 76-5-302)**
- **In certain cases of aggravated kidnapping, the district court may impose a lesser sentence if that sentence is “in the interests of justice”**

(3) Aggravated kidnapping in the course of committing unlawful detention is a third degree felony.

(4) Aggravated kidnapping is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;

(b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

(5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (4)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (4)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(6) The provisions of Subsection (5) do not apply when a person is sentenced under Subsection (4)(c).

(7) Subsections (4)(b) and (c) do not apply if the defendant was younger than 18 years of age at the time of the offense.



LeBeau v. State

2014 UT 39, 337 P.3d 254

- The Utah Supreme Court concluded that a district court was required to engage in an interests-of-justice analysis when considering whether to impose a lesser sentence
- Because the Utah Supreme Court concluded that the phrase “interests of justice” was ambiguous, the Court created a framework for district courts to follow
- Interests-of-Justice Analysis:
 - The proportionality of the defendant’s sentence in relation to the severity of his offense
 - The seriousness of the defendant's conduct in relation to the severity of his sentence
 - The severity of the defendant's sentence compared to the sentences imposed for more and less serious crimes in Utah
 - The defendant’s potential for rehabilitation when determining whether the interests of justice support a lesser sentence



LeBeau v. State

2014 UT 39, 337 P.3d 254

- **Justice Lee, dissenting:**
 - Interprets the phrase as giving district courts broad sentencing discretion
 - Whether sentencing should be more regimented, guidelines based or discretionary is a dilemma for policymakers
 - Majority approach may require proportionality review of every sentence imposed in the courts since relevant to all sentencing decisions
 - Interests-of-justice analysis applies in at least eight other sentencing statutes
- ***Weakened requirement: Courts are presumed to have engaged in the analysis and are only required to conduct the analysis when the parties raise the issue***
- **Call: Whether the Legislature intended for the “interests of justice” to require the legal standards under *LeBeau***



Options for Responding

- 1) **Utah State Tax Comm'n v. See's Candies**
 - a) Refer to Revenue and Tax Committee
 - b) No legislative action
- 2) **State v. Burr**
 - a) Open a committee bill file
 - b) Study the issue in committee
 - c) Refer to Law Enforcement and Criminal Justice Committee
 - d) No legislative action
- 3) **Armendariz v. Armendariz**
 - a) Open a committee bill file
 - b) Study the issue in committee
 - c) No legislative action
- 4) **In re K.J.**
 - a) Open a committee bill file
 - b) Study the issue in committee
 - c) No legislative action
- 5) **State v. Coombs/LeBeau v. State**
 - a) Open a committee bill file
 - b) Study the issue in committee
 - c) Refer to Law Enforcement and Criminal Justice Committee
 - d) No legislative action



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